

REMARKS

In response to the Office Action dated April 4, 2006, Applicant respectfully requests favorable reconsideration of the above-captioned application in view of the above-identified amendments in conjunction with the following remarks. Claims 1-15 and 17-50 are now pending in this application.

Miscellaneous Administrative Matters

Claim 25 was amended in the February 15, 2006 Response, but Applicant inadvertently omitted the status identifier "currently amended" for this claim. Claim 25 is properly labeled as "previously presented" in the present Response (because, in effect, this claim was previously amended).

Regarding the 35 U.S.C. § 112, Second Paragraph, Rejection

Claims 17-24 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. To the extent that this rejection is deemed to apply to the claims as currently amended, the Applicant respectfully traverses this rejection for the following reasons.

Paragraph No. 2 of the Office Action explains the basis of the 35 U.S.C. § 112, second paragraph, rejection as follows: "Claims 17-23 recite the limitation 'a computer software architecture'; claim 24 recites 'a method'. There is insufficient antecedent basis for this limitation in the claim." The basis for this rejection is not understood. The preamble of independent claim 1 previously recited "A computer architecture," and now recites "One or more computer-readable media" (in response to changes made to address the 35 U.S.C. § 101 rejection, addressed below). The preamble of independent claim 24

1 recites "A method." These terms establish antecedent basis for later references to the
2 terms "one or more computer-readable media" and "a method." Therefore, the Applicant
3 submit that the claims do not lack antecedent basis for these the terms, and the claims
4 consequently comply with 35 U.S.C. § 112, second paragraph.

5 For the above-identified reasons, the Applicant respectfully requests the Patent
6 Office to withdraw the 35 U.S.C. § 112, second paragraph, rejection. Alternatively, if
7 this rejection is repeated, the Patent Office is requested to explain in greater detail the
8 basis of its rejection.

9
10 *Regarding the 35 U.S.C. § 101 Rejection*

11 The Office Action rejects claims 17-24 as failing to comply with the provisions of
12 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.
13 Applicant respectfully traverses this rejection for the following reason.

14 To expedite prosecution of this case toward allowance, the Applicant has
15 amended the preamble of independent claim 17 to recite: "One or more computer-
16 readable media comprising computer-executable instructions that, when executed,
17 implement a computer software architecture on one or more computers, the architecture
18 comprising . . ." (Further note that dependent claims 18-23 incorporate the subject matter
19 of independent claim 17 through dependency.) Applicant has amended the preamble of
20 independent claim 24 to recite: "A method implemented on one or more computers
21 comprising . . ." The Applicant submits that these changes clarify the statutory nature of
22 the claimed invention. For instance, MPEP § 2106 (page 2100-13 of the Rev. 2, May
23 2004 revision) states: "When a computer program is recited in conjunction with a
24 physical structure, such as a computer memory, Office personnel should treat the claim as
25 a product claim."

1 For at least the above-stated reasons, the Applicant respectfully requests the
2 Patent Office to withdraw the 35 U.S.C. § 101 rejection of claims 17-24.

3
4 *Regarding the 35 U.S.C. § 102 Rejection*

5 Claims 1-44 were rejected under 35 U.S.C. § 102(e) as being anticipated by newly
6 cited U.S. Patent No. 6,412,008 to Fields et al. (referred to below as "Fields"). Applicant
7 respectfully traverses this rejection for the following reasons.

8 At the outset, paragraph No. 6 of the Office Action identifies the patent number of
9 the Fields patent as 6,785,721. This patent number corresponds to the previously applied
10 Immerman patent. It is believed that the patent number of the applied Fields patent is
11 6,412,008, as identified in the PTO-890 Form which accompanies the Office Action. If
12 this is not correct, the Patent Office is respectfully requested to clarify the basis of the
13 § 102 rejection.

14 Turning to the rejection, Fields discloses a technique for customizing a network
15 file. Customization of the network file is achieved by distributing the customization tasks
16 between a requesting client 30 and a server 32. Note column 4, lines 1-5 of Fields. In the
17 server side of the process, the server 32 receives an HTTP request from the client 30 that
18 specifies various data, such as a user agent string, various corporate options, and various
19 personal options. The server 32 retrieves and customizes the network file based on the
20 supplied data in the request. The server 32 also can embed return customization
21 information in its response to the client 30. In the client side of the process, the client 30
22 receives the customized network file including the return customization information from
23 the server 32. The client 30 can then further customize the network file based on the
24 return customization information supplied by the server 32. Note generally column 4,
25 line 65 to column 5, line 17 of Fields.

Independent claim 1 of the present application is reproduced as follows with emphasis:

1. A server system, comprising:
one or more computers;
an application executing on the computers to receive and process client requests;
and
a constraint system to constrain operation of the application according to multiple different constraints, the constraint system comprising ***a hierarchy of constraint layers***, with each constraint layer containing a set of one or more constraints that customize operation of the application, ***wherein the constraint layers in the hierarchy have different respective priorities associated therewith.***

Fields does not disclose or suggest at least the bolded-italicized portions of claim 1 when considered in the context of the claim as read as a whole. Namely, while Fields may impose a plurality of constraints in customizing a network file, Fields nowhere discloses or suggests that these constraints are part of a "***hierarchy of constraint layers***," wherein "***constraint layers in the hierarchy have different respective priorities associated therewith.***"

To illustrate this point, consider the series of flowcharts shown in Figs. 5, 6, and 7A of Fields. Fig. 5 generally shows that the network file is potentially customized based on a user agent string (in step 128), based on corporate options (in step 132), and based on personal options (in step 134). But Fields *does not disclose that these constraints are associated with constraint layers having different respective priorities*. For example, in the illustrative case of Fig. 6, the network file is presumably customized based on a user

1 agent string (in step 164) and then is customized based on personal options (in step 166).
2 But in Fig. 6, the network file is presumably customized based on personal options (in
3 step 192) and then is customized based on a user agent string (in step 196). As evidenced
4 by this apparent ambivalence in customization order, there is no hint in Fields that any
5 one of the constraint types (user agent string information, corporate options, and personal
6 options) is more important than another. Hence, Fields fails to teach that its constraints
7 form a hierarchy of levels having different respective priorities associated therewith.

8 In rejecting the "constraint system" clause of claim 1, the Office cites column 4,
9 line 65 to column 5, line 17 of Fields. This portion of Fields has been summarized above.
10 As explained above, this passage does not disclose constraints that are part of a
11 "hierarchy of constraint layers," wherein "constraint layers in the hierarchy have different
12 respective priorities associated therewith."

13 For at least the above-identified reasons, the Applicant submits that independent
14 claim 1 is neither anticipated nor rendered obvious by Fields. Independent claims 9, 24,
15 27, and 29 have been amended to include related subject matter to claim 1. These claims
16 therefore distinguish over Fields for reasons similar to those presented above with respect
17 to claim 1.

18 The remaining independent claim, i.e., claim 17, is reproduced below in full with
19 emphasis:

20
21 17. One or more computer-readable media comprising computer-executable
22 instructions that, when executed, implement a computer software architecture on one or more
23 computers, comprising:

24 *a constraint hierarchy of multiple constraint layers*, each constraint layer
25 containing a set of one or more constraints that constrain operation of an application, *the*

1 *constraint layers being organized within the constraint hierarchy such that a first*
2 *constraint layer limits a second constraint layer but the second constraint layer does not*
3 *limit the first constraint layer; and*

4 *a constraint resolver to resolve the constraint layers so that operation of the*
5 *application is constrained by a set of the constraints in the constraint layers, wherein the*
6 *constraint resolver is configured to reconcile any conflicts among constraints imposed by*
7 *different constraint layers.*
8

9 Fields does not disclose or suggest at least the bolded-italicized portions of claim
10 17 when considered in the context of the claim as read as a whole. Namely, while Fields
11 may impose a plurality of constraints in customizing a network file, Fields nowhere
12 discloses or suggests that these constraints form “a *constraint hierarchy* of multiple
13 constraint layers,” “the constraint layers being organized within the constraint
14 hierarchy such that *a first constraint layer limits a second constraint layer but the*
15 *second constraint layer does not limit the first constraint layer.*” For instance, Fields
16 nowhere discloses or suggests that any one of the user agent string information,
17 corporation options, and personal options is more important than the others, such that one
18 of these constraints might limit the other but not vice versa. Fields also nowhere
19 discloses or suggests a “*constraint resolver to resolve the constraint layers so that*
20 *operation of the application is constrained by a set of the constraints in the constraint*
21 *layers, wherein the constraint resolver is configured to reconcile any conflicts among*
22 *constraints imposed by different constraint layers.*” For instance, Fields nowhere
23 discloses or suggests that any of user agent string information, corporate options, and
24 personal options might conflict with each other, and hence, Fields does not disclose any
25 kind of conflict resolution mechanism or protocol.

1 For at least the above-identified reasons, the Applicant submits that independent
2 claim 17 is neither anticipated nor rendered obvious by Fields.

3 The remaining pending claims are dependent claims (including newly added
4 claims 45-50). These claims distinguish over Fields at least by virtue of their respective
5 dependencies on the above-discussed independent claims. These claims also recite
6 additional subject matter which is not disclosed or suggested by the Fields document.
7 For at least these reasons, the dependent claims are neither anticipated nor rendered
8 obvious by Fields.

9 For the above-stated reasons, the Applicant respectfully requests the Patent Office
10 to withdraw the 35 U.S.C. § 102(e) rejection based on the Fields reference.

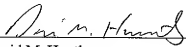
11
12 *Conclusion*

13 The arguments presented above are not exhaustive; Applicant reserves the right to
14 present additional arguments to fortify its position. Further, Applicant reserves the right
15 to challenge the alleged prior art status of one or more documents cited in the Office
16 Action.

1 All objections and rejections raised in the Office Action having been addressed, it
2 is respectfully submitted that the present application is in condition for allowance and
3 such allowance is respectfully solicited. The Examiner is urged to contact the
4 undersigned if any issues remain unresolved by this Amendment.

5
6 Respectfully Submitted,

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8 Dated: August 7, 2006

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